

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MONADNOCK CONSTRUCTION, INC.,  
Plaintiff,

-against-

WESTCHESTER FIRE INSURANCE  
COMPANY,  
Defendant.

Case No.: 16 CIV 00420 (JBW)  
ECF Case

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**DECLARATION OF HOWARD KLEINHENDLER IN OPPOSITION TO  
DEFENDANT’S MOTION TO DISMISS**

I, Howard Kleinhendler, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a member of Wachtel Missry LLP, counsel for plaintiff Monadnock Construction, Inc. (“Monadnock”) in the above-captioned action. I submit this declaration in opposition to defendant Westchester Fire Insurance Company’s (“WFIC”) motion to dismiss.

2. Annexed hereto as Exhibit A are true and correct copies of Performance Bond K08840295, issued by WFIC, dated February 12, 2103, and Performance Bond K08840258, issued by WFIC, dated February 11, 2013.

3. Annexed hereto as Exhibit B are true and correct copies of the notices of default and notices of continuing default that Monadnock issued to Glasswall, LLC (“Glasswall”), with copies to WFIC, on September 16, 2013, October 23, 2016, and December 31, 2013.

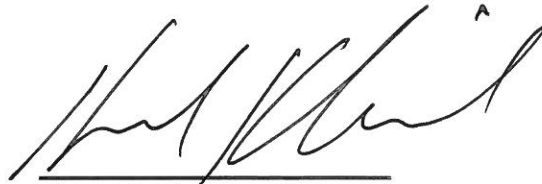
4. Annexed hereto as Exhibit C is a true and correct copy of the Agreement to Amend Contracts, dated April 4, 2104, among Glasswall, Ugo Colombo and Sara Jayne Colombo Kennedy, WFIC, Monadnock, HPS 50<sup>th</sup> Avenue Associates LLC and HPS Borden Avenue Associates LLC.

5. Annexed hereto as Exhibit D is a true and correct copy of the March 4, 2015 notice of default that Monadnock issued to Glasswall, with copy to WFIC.

6. Annexed hereto as Exhibit E is a true and correct copy of the March 16, 2015 notice of termination that Monadnock issued to Glasswall, with copy to WFIC.

I declare under penalty of perjury that the foregoing is true and correct.

Dated and Executed: April 18, 2016

A handwritten signature in black ink, appearing to read 'Howard Kleinhendler', written over a horizontal line.

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